IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

R.P.No. 886 of 2007 in W.A. NO.1924 OF 2002

AGAINST THE JUDGEMENT/ORDER IN WA.1924/2002 Dated 16/09/2002

REVIEW PETITIONER/APPELLANT:

N. SREEKANTANKUTTY,
EX-RPF CONSTABLE, 185/FB, PODANUR, RESIDING AT
PANDANADU NORTH P.O., VIA. KALLISSERI-698 124,
CHENGANNUR.

BY ADV. SRI.C.K.PRASAD
SRI.ABHILASH S.FRANCIS

RESPONDENTS/RESPONDENTS:

1. UNION OF INDIA,
REPRESENTED BY THE GENERAL MANAGER,
SOUTHERN RAILWAY, MADRAS-3.

2. THE DIRECTOR GENERAL,
RAILWAY PROTECTION FORCE, RAIL BHAVAN,
RAISINA BUILDING, NEW DELHI.

3. CHIEF SECURITY COMMISSIONER,
SOUTHERN RAILWAY, MADRAS.

4. DIVISIONAL SECURITY COMMISSIONER,
RAILWAY PROTECTION FORCE, SOUTHERN RAILWAY, PALAKKAD.

5. V. GOVINDARAJAN,
INSPECTOR, RAILWAY PROTECTION FORCE,
COIMBATORE JUNCTION. (NOW WORKING AT NAGARKOVIL).

6. R.V. RAJAN,
INSPECTOR, RAILWAY PROTECTION FORCE,
SOUTHERN RAILWAY, COIMBATORE.
(NOW WORKING AT DINDIGAL).

R1 TO R4 BY SHRI VARGHESE P. THOMAS, SENIOR STANDING
COUNSEL FOR RAILWAYS.

THIS REVIEW PETITION HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.B. KOSHY & PIUS C.KURIAKOSE, JJ.

R.P.No.886 of 2007 in
W.A.No.1924 of 2002
and
C.M.Appln.No.397/2007 in R.P.No.886/2007

Dated this the 4th day of October, 2007

Order

Koshy,J.

This review petition was filed with a delay condonation petition for condoning the delay of 1775 days in filing the above review petition. First, we may consider the delay condonation petition. Reason for delay alleged is that special leave petition was filed from the judgment in the writ appeal which was numbered as S.L.P.(C) No.1373 of 2003. It was dismissed in limine on 3.2.2003. Thereafter, a mercy petition was filed (date not mentioned) to the Minister and that was dismissed and the matter of dismissal of the same was informed to the President of Kerala Pradesh Congress Committee by letter dated 21.6.2007 by the Minister. Dismissal of her mercy petition is not a ground for condoning the delay. Judgment in the writ appeal was delivered as early as on 16.92002. S.L.P. filed before the Hon'ble Supreme Court was dismissed on 3.2.2003.

The fact that a mercy petition was filed somewhere in 2006 and was placed before the Minister and Minister informed the President of KPCC that the mercy petition cannot be taken up only on 21.2.2007 is not a ground for condoning the long delay in filing the review petition. Ext.P19 is the letter stated to have been written to the President of KPCC by the Minister. It is a D.O. letter. Mercy petition is not a statutory petition and such a petition is not contemplated under law. Hence, there is no ground for condoning the long delay.

2. It is true that as held by the Apex Court in Kunhayammed v. State of Kerala (2000 (3) KLT 354 SC), dismissal of SLP by a non-speaking order, there is no merger and when SLP is dismissed and review power can be exercised in appropriate cases, but, here, long delay in filing the review petition is not explained as more than four years have passed after dismissal of SLP also. We further note that no grounds are made out for reviewing the judgment. A review petition cannot be equated to a re-hearing of the matter or an appeal proceedings as such. In view of the long delay in filing the appeal which is not

explained properly, the delay condonation petition is dismissed. Consequently, the R.P. is also dismissed.

J.B.KOSHY
JUDGE

PIUS C.KURIAKOSE
JUDGE

vaa

J.B. KOSHY AND
K.HEMA,JJ.

---M.F.A.NO. OF 2002

Judgment

Dated:13th September, 2007